

HOUSE BILL REPORT

SB 5814

As Reported by House Committee On: Finance

Title: An act relating to adding additional tribes with whom the governor may contract with under RCW 43.06.460.

Brief Description: Authorizing the governor to enter into cigarette tax contracts with additional tribes.

Sponsors: Senators Prentice, Swecker, Rasmussen and Kohl-Welles; by request of Department of Revenue.

Brief History:

Committee Activity:

Finance: 3/22/05, 3/30/05 [DP].

Brief Summary of Bill

- Adds the Confederated Tribes of the Colville Reservation, the Cowlitz Indian Tribe, the Lower Elwha Klallam Tribe, and the Makah Tribe to the list of tribes with which the Governor may make cigarette tax contracts.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 9 members: Representatives McIntire, Chair; Hunter, Vice Chair; Orcutt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Ahern, Conway, Ericksen, Hasegawa and Santos.

Staff: Bob Longman (786-7139).

Background:

The state imposes a tax on the sale, use, consumption, handling, possession, or distribution of cigarettes. Cigarette taxes are added directly to the price of the cigarettes. The rate for the cigarette tax is 142.5 cents per pack of 20 cigarettes which is equal to \$14.25 per carton. Revenue from the first 23 cents of the cigarette tax goes to the State General Fund. The next 8 cents are dedicated to water quality improvement programs through June 30, 2021, and to the State General Fund thereafter. The next 101 cents goes to the Health Services Account. The remaining 10.5 cents are dedicated to youth violence prevention and drug enforcement. Retail sales and use taxes are also imposed on sales of cigarettes. The state sales tax rate is 6.5 percent of the selling price. Local governments may levy additional sales taxes. The total

state and local rate varies from 7 percent to 8.9 percent, depending on the location. State and local sales and use taxes on an average carton of cigarettes are about \$3.

Under federal law, the cigarette tax does not apply to cigarettes sold on an Indian reservation to an enrolled tribal member for personal consumption. However, sales made by tribal cigarette retailers to non-tribal members are subject to the tax. Enforcement of state cigarette taxes with respect to tribal retail operations has involved considerable difficulty and litigation, with mixed results.

In 2001, the Legislature authorized the Governor to enter into contracts regarding the taxation of the sale of cigarettes sold on Indian lands. Under a cigarette tax contract, the sales must be subject to a tribal cigarette tax equal to 100 percent of the state cigarette and state and local sales and use taxes and are exempt from these state and local taxes. The rate may be phased in over three years but can be no lower than 80 percent of the state cigarette and sales tax rate. Revenues from the tribal tax must be used for essential government services. The contracts must require the use of cigarette stamps and include other provisions for tax enforcement and administration. The contracts must be for renewable periods of no more than eight years.

The Governor was originally authorized to enter into agreements with the Squaxin Island Tribe, the Nisqually Tribe, the Tulalip Tribes, the Mukleshoot Indian Tribe, the Quinault Nation, the Jamestown S'Klallam Indian Tribe, the Port Gamble S'Klallam Tribe, the Stillaguamish Tribe, the Sauk-Suiattle Tribe, the Skokomish Indian Tribe, the Nooksack Indian Tribe, the Lummi Nation, the Chehalis Confederated Tribes, and the Upper Skagit Tribe. Authority was subsequently granted to enter into agreements with the Yakama Nation, the Suquamish Tribe, the Snoqualmie Tribe, the Swinomish Tribe, the Quileute Tribe, the Samish Indian Nation, and the Kalispel Tribe.

The Governor has the authority to contract with 21 tribes and has contracted with 18 tribes to date.

Summary of Bill:

The Governor is authorized to enter into cigarette tax contracts with the Confederated Tribes of the Colville Reservation, the Cowlitz Indian Tribe, the Lower Elwha Klallam Tribe, and the Makah Tribe, under the same terms as existing contracts with other tribes.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The existing contracts with tribes are working well and should be extended to additional tribes.

Testimony Against: None.

Persons Testifying: Leslie Cushman, Department of Revenue; and Kelly Croman, Squaxin Island Tribe.

Persons Signed In To Testify But Not Testifying: None.